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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,866	01/04/2002	David J. Luneau	10200-010001	6385
26161	7590	10/20/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			GAUTHIER, GERALD	
		ART UNIT		PAPER NUMBER
		2645		

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/038,866	LUNEAU ET AL.
	Examiner Gerald Gauthier	Art Unit 2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 May 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claim(s) 1-19** rejected under 35 U.S.C. 103(a) as being unpatentable over Albal et al. (US 2003/0147518 A1) in view of Frech et al. (US 6,233,325 B1).

Regarding **claim 1**, Albal discloses a data communication method for use in a telephone network having a caller identification feature, wherein the caller-identification feature communicates data to a called party that includes data corresponding to a telephone number of a calling party (FIG. 1 and paragraph 0001), the method comprising:

identifying a message recipient having a message recipient telephone number on the telephone network (FIG. 1 and paragraph 0020) [The electronic network 16 has a personal file for each subscriber to identify the subscriber of this telephone feature];

selecting a message for the message recipient (FIG. 1 and paragraph 0021) [The network 16 determines the caller identification for the subscriber];

providing a message code corresponding to the selected message, wherein the message code is in the format of a telephone number (FIG. 1 and paragraph 0021) [The caller's information is provided to the subscriber and the information includes the name and the telephone number of the caller 60]; and

receiving the data corresponding to the message code at the recipient telephone number (FIG. 1 and paragraph 0026) [The node 60 establishes the connection with the communication device of the subscriber and the communication node 56 delivers the caller ID information to the second communication device to provide the subscriber 62 with the name and number of the caller 60].

Albal disclose placing a call to the subscriber but fails to disclose setting up a non-associated telephone call to the recipient telephone number from a simulated calling party having the same telephone number as the message code.

However, Frech teaches setting up a non-associated telephone call to the recipient telephone number from a simulated calling party having the same telephone number as the message code, such that the telephone network uses the caller-identification feature to communicate data corresponding to the message code to the recipient telephone number (FIG. 1 and column 6, lines 21-45) [The service control node/IP 131 establishes a new call to the called party using the SS7 network to identify the caller].

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Albal using the SCN/IP as taught by Frech.

The modification of the invention would offer the capability of setting up a non-associated telephone call to the recipient telephone number from a simulated calling party having the same telephone number as the message code so that the system would give the subscribers option regarding the incoming call.

Regarding **claim 2**, Albal discloses the step of converting the received data corresponding to the message code (¶ 0020).

Regarding **claim 3**, Albal discloses wherein the received data corresponding to the message code is converted to the message for the message recipient (¶ 0020).

Regarding **claim 4**, Albal discloses the step of displaying the message as text (¶ 0021).

Regarding **claim 5**, Albal discloses the step of audibly announcing the message (¶ 0021).

Regarding **claim 6**, Albal discloses the message is audibly announced over a speaker other than a speaker in a telephone handset (¶ 0021).

Regarding **claim 7**, Albal discloses the message is audibly announced over a speaker in a telephone handset (¶ 0021).

Regarding **claim 8**, Albal discloses the telephone handset is corded (¶ 0017).

Regarding **claim 9**, Albal discloses wherein the telephone handset is cordless (¶ 0015).

Regarding **claim 10**, Albal discloses the telephone network is the North American telephone network (¶ 0018).

Regarding **claim 11**, Albal discloses the caller-identification feature is Caller ID (¶ 0021).

Regarding **claim 12**, Albal discloses the data communicated to a called party by the Caller ID feature is the Incoming Caller Line Identification signal (¶ 0025).

Regarding **claim 13**, Albal discloses the format of the telephone number includes a three-digit area code and a seven-digit number (¶ 0025).

Regarding **claim 14**, Albal discloses the message code is a ten-digit number (¶ 0025).

Regarding **claim 15**, Albal discloses the caller-identification feature communicates data on a common channel interoffice signaling system (¶ 0025).

Regarding **claim 16**, Albal discloses the caller-identification feature communicates data on the signaling system 7 common channel interoffice signaling system (¶ 0025).

Regarding **claim 17**, Albal discloses the step of identifying plural message recipients, each having a respective message recipient telephone number (¶ 0020).

Regarding **claim 18**, Albal discloses the recipients are identified on the basis of geographical location (¶ 0025).

Regarding **claim 19**, Albal discloses the same message is selected for each of the plural recipients (¶ 0020).

5. **Claim(s) 20-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Albal in view of Frech as applied to **claim(s) 1** above, and further in view of Tate (US 6,509,833 B2).

Regarding **claims 20 and 22**, Albal as applied to claim 1 differs from claims 20 and 22 in that it fails to disclose the message is an emergency notification message.

However, Tate teaches the message is an emergency notification message (column 8, lines 8-22).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use the message emergency notification message of Tate in the invention of Albal.

The modification of the invention would offer the capability of the message to be an emergency notification message so that the system would warn the subscribers.

Regarding **claim 21**, Tate teaches the step of causing a telephone associated with the message recipient telephone number to provide a distinctive ring when data

corresponding to a message code is received at the recipient telephone number (column 6, lines 13-28).

***Response to Arguments***

6. Applicant's arguments with respect to **claims 1-22** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GERALD GAUTHIER**  
**PATENT EXAMINER**

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October 17, 2005

*Fan Tsang*  
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